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March 20, 2016

VIA ECF

Honorable William J. Martini
United States District Judge
Martin Luther King, Jr. Federal Courthouse
50 Walnut Street, P.O. Box 999
Newark, New Jersey 07101-0999

**Re: *In re Urethane Antitrust Litigation,*
Master Docket No. 08-5169 (WJM) (MF)**

Dear Judge Martini:

As the Court may be aware, the parties are scheduled to have our final call with Judge Pisano on Monday at 3:30 pm, at which time he will rule on all remaining outstanding objections relating to Dow's deposition designations for its affirmative case. In order to assure that, consistent with what occurred with respect to Plaintiffs, Dow knows what designations will be used prior to presenting its case, Dow proposes that the parties submit objections, if any, to Judge Pisano's rulings on Wednesday, March 23. This schedule is the same as the one ordered by Your Honor in connection with Plaintiffs' deposition designations prior to the start of their case – Judge Pisano issued his final rulings on the Monday prior to the start of trial and Your Honor ordered the parties to submit objections two days later, on Wednesday.

Please be advised that Dow proposed briefing schedules to Plaintiffs, including the proposal above, on Friday morning of last week and over the weekend, but Plaintiffs have rejected each of them; most recently, Plaintiffs proposed that objections be due on Thursday, March 24. Dow is concerned, however, that if objections are not submitted by Wednesday March 23, Dow's presentation of evidence, which will likely begin on Monday, March 28, will be prejudiced. While we do not mean to criticize the plaintiffs (since all parties have been working extremely hard), any delay in resolution of objections to deposition designations is not the result of Dow's delay. With the exception of a small number of witnesses for which, at Judge Pisano's direction, Dow converted so-called "counter designations" (provided in mid-February) into affirmative designations for its case, Dow provided all of its revised deposition designations to the plaintiffs between February 22 and February 28. With respect to many of those designations Plaintiffs did not respond for two to three weeks. In any event, however, although we understand that Plaintiffs are very busy presenting their case, we respectfully submit that objections should be submitted by Wednesday in order to assure the timely resolution of this matter.

In that connection, Dow also believes that, depending upon the Objections filed from Judge Pisano's rulings, either party should be permitted to request from Your Honor the opportunity to submit brief responses thereto, also on an expedited schedule to be set by the Court; perhaps, for example, they could be filed by noon on Friday, March 25 so that the Court would have the benefit of these submissions over the weekend. The reason for this request is that, unlike the last round, when the parties submitted simultaneous briefing largely on the same issues, that will not be the case in this instance. Indeed, Plaintiffs have informed Dow that they will be objecting to numerous of Judge Pisano's rulings to date (and that they have already begun drafting their brief); Dow thus far has no objections to Judge Pisano's rulings on its designations. If Dow is not permitted a brief response to Plaintiffs' objections where

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necessary, it will be deprived of the opportunity to be heard on some potentially critical issues; this was really not the case the last time. Of course, should Dow object, Plaintiffs would have that opportunity as well.

We look forward to addressing the Court, briefly, on this issue, at an appropriate break in the action. Thank you for your kind consideration of this matter.

Respectfully submitted,

s/ Lawrence S. Lustberg
Lawrence S. Lustberg

Enclosures

cc: Honorable Mark Falk, U.S.M.J. (*via* Regular Mail)
All counsel of record (*via* ECF)